

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

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UNITED STATES OF AMERICA §

V. § CRIMINAL NO. 3:13-CR-00215-D

BENJAMIN KINYUA (1) §

**UNOPPOSED MOTION FOR CONTINUANCE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the Defendant, BENJAMIN KINYUA, by and through undersigned counsel and files this his unopposed motion to continue the trial date and the pretrial deadlines. In support of said motion, the Defendant would show unto the Court as follows:

I.

The Defendant was indicted on June 12, 2013 in a one count Indictment alleging Theft of Public Funds in violation of 18 U.S.C. §641 and 2. The Defendant entered a plea of not guilty on June 25, 2013. The Court issued its Criminal Trial Scheduling Order on June 26, 2013 setting trial for September 3, 2013 with a motion deadline of August 5, 2013.

II.

Undersigned counsel believes the case is a complex case within the meaning of 18 U.S.C. § 3161(h)(8)(B)(ii) . The Defendant is accused of working with two others in the indictment, as well as others not named, in a scheme to steal public funds in relation to a tax refund checks. The Government and undersigned counsel have spoken several times since the initial appearance regarding discovery evidence. The Government is in the process of providing access to discovery material however at this time, they have provided only two one page documents to undersigned counsel. The Government has communicated to undersigned counsel that the discovery in this case

includes voluminous recordings of the individuals named in the indictment, transcriptions of some recordings, as well as other evidence which forms the basis of the Government's case against the Defendant. While undersigned counsel is confident that the Government is working to produce this material, it has been over a month since the indictment and is now 18 days until the motions deadline. Undersigned counsel believes there is no way to adequately prepare the case for trial as it is currently set and requests a continuance. This continuance is requested not for purposes of delay but rather to protect the Defendant's right to effective assistance of counsel and to avoid a miscarriage of justice. The Government and counsel for Defendants Muya and Amont have advised undersigned counsel that they do not oppose a continuance.

WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully requests this Honorable Court to issue an order continuing the current trial date of September 3, 2013 and the pre-trial motions deadline of August 5, 2013 and that replacement dates be ordered.

Respectfully Submitted,

/s/ Paul T. Lund  
Paul T. Lund  
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Attorney for Defendant  
Benjamin Kinyua

CERTIFICATE OF CONFERENCE

This is to certify that undersigned counsel conferred with Christopher Stokes, the Assistant United States Attorney in charge of this case, as well as Jeffrey Grass, attorney for Thomas Nganga Muya, and Carl Day, attorney for Harry Fabrice Cheickh Amont. All parties do not oppose this motion.

*/s/ Paul T. Lund*

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Paul T. Lund

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing motion was delivered by ECF filing to Christopher Stokes, the Assistant United States Attorney in charge of this case, as well as Jeffrey Grass, attorney for Thomas Nganga Muya, and Carl Day, attorney for Harry Fabrice Cheickh Amont.

*/s/ Paul T. Lund*

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Paul T. Lund